

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,
Plaintiff,

v.

THOMAS FARMER,
Defendant.

Criminal No. 03:13-cr-00162 (DRD-MEL)

UNITED STATES' DESIGNATION OF EVIDENCE

Pursuant to the Court's instruction at the March 25, 2014 status hearing, the United States has reviewed *United States v. de la Cruz-Paulino*, 61 F.3d 986 (1st Cir. 1995), and Federal Rule of Criminal Procedure 12 (b)(4) and is filing the following designation of evidence to provide defendant an opportunity to file any motions to suppress evidence before trial under Rule 12 (b)(3)(C). This designation, in addition to other pretrial disclosures previously made to defendant, provides defendant with more than adequate notice of the evidence to be offered against him. Therefore, the trial date of May 19, 2014 should not be continued.

I. The United States Designates the Evidence in its Preliminary Trial Exhibit List

On March 25, 2014, United States Magistrate Judge Marcos E. López granted defendant's Motion for Production of Trial Exhibits. (Dkt. No. 73). In that Motion, defendant requested that the Court "order the Government to produce to the defense ... 'a set of documents containing the universe of potential trial exhibits known to the United States at that time and a preliminary trial exhibit list.'" (Dkt. No. 57).

Pursuant to Judge López's Order, the United States provided defendant with a preliminary list of 158 exhibits, the universe of potential trial exhibits known to the United States

at this time.¹ The United States also offered defendant a CD containing copies of all of those exhibits. Pursuant to the Court's order and Rule 12 (b)(4), the United States designates the 158 exhibits on this list.

II. The Trial Date of May 19, 2014 Should Not be Continued

The government's preliminary trial exhibit list is not voluminous – it includes only 158 exhibits. For reference, the preliminary trial exhibit list provided 60 days before the *United States v. Peake* trial contained 281 exhibits. Very few, if any, of these exhibits on the preliminary trial exhibit list should surprise defendant Farmer. Of the 158 exhibits, 53 of them were shown to defense counsel in a reverse proffer of evidence on September 8, 2011 – 18 months before defendant was indicted. Those same documents were produced to defendant in hard-copy form on February 26, 2013 – just before indictment. Many of the other documents are e-mail messages between defendant and two co-conspirators, Greg Glova and Peter Baci, who both testified during the *Peake* trial. Defendant's attorneys sat through all of the *Peake* trial and saw both Mr. Glova and Mr. Baci testify. Some of the exhibits relate to consensual telephone calls between defendant and a co-conspirator. The United States informed defendant of these calls well before indictment and produced the transcripts and audio recordings of these calls on April 30, 2013.

In addition to this exhibit list, the United States has provided defendant with significant roadmaps to guide defendant through the other information produced in discovery. The United States provided a log identifying the types of documents and custodians, copies of law enforcement and DOJ memoranda relating to all interviews conducted in connection with the government's investigation, as well as, identifying information of the documents shown during

¹ The United States reserves the right to supplement this exhibit list as it continues to prepare for trial.

those interviews. Finally, the United States provided transcripts and exhibits from the grand jury testimony of the witnesses who testified in connection with the government's investigation.

Defendant was indicted on March 21, 2013. The current trial date of May 19, 2014 is approximately 14 months after the indictment. That is the same amount of time that defendant's co-conspirator, Frank Peake, had to prepare for his trial (which started January 14, 2013) after his indictment (on November 17, 2011). Defendant has known for many months the nature of the charges against him and the evidence that the government would likely introduce at trial. Now armed with the government's potential trial exhibit list, there are no grounds to continue the trial date of May 19, 2014.

DATED: this 28th day of March, 2014. Respectfully submitted,

/s/ Craig Lee

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CERTIFICATE OF SERVICE

I hereby certify that on March 28, 2014, a true and correct copy of the foregoing "United States Designation of Evidence" was filed electronically and to the best of my knowledge, information and belief, counsel for defendant will be notified through the Electronic Case Filing System.

/s/ Craig Lee

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